

## **ADMINISTRATIVE PANEL DECISION**

Gaumont v. Sophia  
Case No. D2024-3889

### **1. The Parties**

The Complainant is Gaumont, France, represented by Nameshield, France.

The Respondent is Sophia, United States of America ("United States").

### **2. The Domain Names and Registrar**

The disputed domain names <gaumont.cc>, and <gaumontvi.com> (the "Disputed Domain Names") are registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 24, 2024. On September 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On September 25, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 25, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 25, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 25, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on October 31, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a Euronext listed company founded in 1895 that mostly produces and distributes films. The Complainant holds registrations for the trademark GAUMONT around the world, including, inter alia, European Union Trade Mark No. 006890511 for GAUMONT (figurative) registered on January 5, 2009, and International trademark No. 1085061 for the mark GAUMONT (figurative) registered on June 1, 2011.

The Complainant owns the domain name <gaumont.com>, registered in November 1996, which resolves to its main webpage.

The Disputed Domain Name <gaumont.cc> was registered on September 18, 2024 and the Disputed Domain Name <gaumontvi.com> was registered on September 20, 2024. The Disputed Domain Names resolved to a webpage that appeared to be a portal operated by the Complainant as it displayed a variation of the Complainant's figurative trademark that consists of the word "GAUMONT" within a flower design and contained fields to collect email address, mobile phone and password information from Internet users. The Disputed Domain Names were later inactive.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Names.

Notably, the Complainant cites its trademark registrations for the mark GAUMONT in numerous countries, as prima facie evidence of ownership.

The Complainant contends that its rights in that the mark GAUMONT mark predate the Respondent's registration of the Disputed Domain Names. It submits that the Disputed Domain Name <gaumont.cc> is identical to its trademark and that the Disputed Domain Name <gaumontvi.com> is confusingly similar to its trademark, because it comprised of the GAUMONT trademark and that the addition of the letters "vi" are not sufficient to avoid the confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because "[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark" and that none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Names were, and currently are, in bad faith, contrary to the Policy and the Rules having regard to the prior use and distinctive nature of the Complainant's trademark, and advances the argument that the use of the Disputed Domain Names to "collect personal information through these websites, namely user's phone numbers and passwords" is use in bad faith.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and
- (iii) that the Disputed Domain Names have been registered and are being used in bad faith.

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Disputed Domain Names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any jurisdiction. [WIPO Overview 3.0](#), section 1.2.1. The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark GAUMONT in numerous jurisdictions.

Turning to whether the Disputed Domain Names are identical or confusingly similar to the GAUMONT trademark, the Panel observes that

— the Disputed Domain Name <gaumont.cc> is comprised of: (a) an exact reproduction of the Complainant's trademark GAUMONT; (b) followed by the country-code Top-Level Domain ("ccTLD") ".cc";

— the Disputed Domain Name <gaumontvi.com> is comprised of: (a) an exact reproduction of the Complainant's trademark GAUMONT; (b) with the letters "vi" added; (c) followed by the generic Top-Level Domain ("gTLD") ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11. The relevant comparison to be made is with the second-level portion of each of the two Disputed Domain Names, specifically: "gaumont" and "gaumontvi", respectively.

The Panel finds, in the case of the Disputed Domain Name <gaumont.cc>, that the entirety of the mark is reproduced within that Disputed Domain Name. Accordingly, the Disputed Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the mark is recognizable within the Disputed Domain Name <gaumontvi.com>. Accordingly, the Disputed Domain Name <gaumontvi.com> is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Although, in relation to the Disputed Domain Name <gaumontvi.com>, the addition of the letters "vi", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between that Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain names (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Names such as those enumerated in the Policy or otherwise.

The Panel notes the composition of the Disputed Domain Names and evidence that the Disputed Domain Names resolved, for a period of time, to “an authentication page” displaying a variation of the Complainant’s figurative trademark that could be used in order to collect personal information of the Complainant’s clients and finds that the Respondent intends to impersonate the Complainant in a phishing campaign or some kind of targeted scam. The Panel therefore finds that this does not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the reputation and goodwill of the Complainant’s mark and capacity to mislead Internet users.

Panels have held that the use of a domain name for illegal activity such as phishing, impersonation, passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established for both of the Disputed Domain Names.

## **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel finds that the evidence shows the Respondent registered and has used the Disputed Domain Names in bad faith.

On the issue of registration, taking into account the composition and prior use of the Disputed Domain Names and the distinctive nature of the Complainant’s trademark, the Panel is satisfied that the Respondent knew of and targeted the Complainant’s trademark GAUMONT when it registered the Disputed Domain Names.

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Names other than to trade off the reputation and goodwill of the Complainant's well-known trademark.

[WIPO Overview 3.0](#), section 3.1.4.

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a disputed domain name (containing the trademark) can indicate bad faith registration. In this case, the Respondent registered the Disputed Domain Names at least 15 years after the Complainant established registered trademark rights in the GAUMONT mark.

On the issue of use, the Complainant's evidence is that each of the Disputed Domain Names resolved to an authentication page displaying a variation of the Complainant's figurative trademark, designed to collect personal information such as the Internet user's email address or phone number, and their password.

Panels have held that the use of a domain name for illegal activity here, alleged impersonation or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. In the circumstances, the Panel finds the Respondent's registration and use of the Disputed Domain Names constitutes bad faith under the Policy.

There is also evidence that the Disputed Domain Names were later inactive.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Disputed Domain Names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the Complainant's well-known GAUMONT trademark, the prior use and the composition of the Disputed Domain Names, and finds that in the circumstances of this case the current passive holding of the Disputed Domain Names does not prevent a finding of bad faith under the Policy.

The Panel also observes that the Respondent appears to have been the unsuccessful respondent in several other UDRP proceedings. See, e.g., *Equinor ASA v. Sophia*, WIPO Case No. [D2024-3440](#); *L'Oréal v. Sophia*, WIPO Case No. [D2024-3335](#); and *Equinor ASA v. Sophia*, WIPO Case No. [D2024-3184](#)). The Panel therefore finds that the Respondent is a serial offender who deliberately targeted the Complainant and is engaged in a pattern of bad faith conduct that further supports a finding of bad faith against the Respondent (See [WIPO Overview 3.0](#), section 3.1.2).

The Panel finds that the Complainant has established the third element of the Policy.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Names <gaumont.cc> and <gaumontvi.com> be transferred to the Complainant.

/Nicholas Weston/

**Nicholas Weston**

Sole Panelist

Date: November 5, 2024.